

EDNET TERMS APPENDIX - Chapter 8

8.9 Guidelines for Off-Air Recording of Broadcast Programming for Educational Purposes

The following excerpts are reprinted from the House Report on piracy and counterfeiting amendments (H.R. 97-495, pages 8-9)

In March 1979, Congressman Robert Kastenmeier, Chairman of the House Subcommittee on Courts, Civil Liberties and Administration of Justice, appointed a Negotiating Committee consisting of representatives of educational organizations, copyright proprietors, and creative guilds and unions. The following guidelines reflect the Negotiating Committee's consensus as to the application of "fair use" to the recording, retention, and use of television broadcast programs for educational purposes. They specify periods of retention and uses of such off-air recording in classrooms and similar places devoted to instruction and for homebound instruction. The purpose of establishing these guidelines is to provide standards for both owners and users of copyrighted television programs.

(1) The guidelines were developed to apply only to off-air recording by nonprofit educational institutions.

(2) A broadcast program may be recorded off-air simultaneously with broadcast transmission (including simultaneous cable transmission) and retained by a nonprofit educational institution for a period not to exceed the first forty-five (45) consecutive calendar days after date of recording. Upon conclusion of such retention period, all off-air recording must be erased and destroyed immediately. "Broadcast programs" are television programs transmitted by television stations for reception by the general public with charge.

(3) Off-air recordings may be used once by individual teachers in the course of relevant teaching activities, and repeated once only when instructional reinforcement is necessary, in classroom and similar places devoted to instruction within a single building, cluster, or campus, as well as in the homes of students receiving formalized home instruction, during the first ten (10) consecutive school days in the forty-five (45) day calendar day retention period. "School days" are school session days--not counting weekends, holidays, examination periods, or other scheduled interruptions--within the forty-five (45) calendar day retention period.

(4) Off-air recordings may be made only at the request of and used by, individual teachers, and may not be regularly recorded in anticipation of requests. No broadcast program may be recorded off-air more than once at the request of the same teacher, regardless of the number of times the program may be broadcast.

(5) A limited number of copies may be reproduced from each off-air recording to meet the legitimate needs of teachers under these guidelines. Each such additional copy shall be subject to all provisions governing the original recording.

(6) After the first ten (10) consecutive school days, off-air recording may be used up to the end of the forty-five (45) calendar day retention period only for teacher evaluation purposes, i.e., to determine whether or not to include the broadcast program in the teaching curriculum, and may not be used in the recording institution for student exhibition or any other non-evaluative purpose without authorization.

(7) Off-air recordings need not be used in their entirety, but the recorded programs may not be altered from their original content. Off-air recordings may not be physically or electronically combined or merged to constitute teaching anthologies or compilation.

(8) All copies of off-air recordings must include the copyright notice on the broadcast program as recorded.

(9) Educational institutions are expected to establish appropriate control procedures to maintain the integrity of these guidelines.

Print

For "Scholarly Research" a teacher may make a single copy of:

- A chapter from a book.
- A short story, essay, or poem.
- An article from a periodical.
- A chart, graph, diagram, or picture.

A teacher may make multiple copies of:

- A poem of less than 250 words that is printed on no more than 2 pages.

- An excerpt from a long poem, not to exceed 250 words.
- A complete article, story, or essay of less than 2,500 words; or an excerpt of not more than 1,000 words, or 10%, whichever is less.
- One chart, graph, diagram, or picture per book.
- Up to 10% of a work that combines prose, poetry and illustration.
- All of these must bear the copyright notice.

Multiple copies are restricted to:

- No more than 3 authors from a collective work.
- No more than 9 instances per term.
- The copying does not replace an anthology or collected work.
- Copying of consumable works is prohibited (Lab books, Masters, Coloring Books).
- The same item may not be copied for more than one term.
- No charge beyond the cost of photocopying can be made to students.
- Printed musical scores may be duplicated only if replacement copies have been ordered, and the photocopies are destroyed when the purchased copies arrive.

**Copyrighted, syndicated cartoons
may not be copied!**

Computer Software

A Teacher may:

- Make a copy of a computer program for archival purposes.
- Load a software program onto a network if a network license is obtained for the number of machines used.
- Load a software program onto two computers if there is no possibility both computers will be operated simultaneously.

Every software program has its own set of restrictions. In many cases the purchase of the disks represents a "leasing" of the software. Teachers should get in the habit of reading all of the small type printed on the the outside of computer programs before opening the package.

Multimedia Guidelines

Students may use portions of lawfully acquired copyrighted works in their academic multimedia projects, with proper attribution and citations, and may retain these in their personal portfolios as examples of their academic work for later appropriate uses such as job and graduate school applications.

Educators may use portions of lawfully acquired copyrighted works in the course of face-to-face instruction or to demonstrate to students how to create multimedia projects.

Educators may perform or display their own multimedia works created for their own curriculum-based instructional activities, which use portions of copyrighted works lawfully acquired by the educational institution, at workshops of their peers, or a conference where educators are presenting work they created for their students.

Educators may use portions of lawfully acquired copyrighted works in producing their own multimedia educational programs to be used for curriculum-based instructional activities made available over an educational institution's electronic network, provided there are technological limitations on access to the network and on the total number of students enrolled.

Limitations:

Educators may use their own multimedia programs, containing portions of copyrighted works, for a period of two years.

- Up to 10% of a copyrighted motion media work may be reproduced.
- Up to 10% of a copyrighted musical composition may be reproduced.
- Up to 5 images from a specific artist or photographer may be reproduced.
- The multimedia program may not be duplicated or sold.
- The multimedia program may not be placed on a network with unlimited access.

A Teacher may create:

- A single overhead transparency from a single page of a consumable work.
- A series of transparencies or 35 mm slides from multiple sources, limited to one per source.

- A set of 35 mm slides (1/2 frame) from a damaged filmstrip as long as they are displayed in the original order minus the damaged frames.
- An enlargement or copy of a map, provided the color scheme, shading, and symbols of the original are not duplicated.

Restrictions to audiovisual duplication:

- No duplication of audio cassettes for archival purposes.
- No conversion of recordings from one format (medium) to another.
- No photocopying of "ditto masters".
- No reproduction of any audiovisual work in its entirety.
- No conversion of one media format to another.

Television restrictions:

- Any broadcast program may be videotaped and maintained for 45 calendar days (cable programs that are available over broadcast TV may not be taped).
- The program may be used once by an individual teacher in the 10 school days following the broadcast.
- The teacher using the videotape must request the taping.
- A program may not be taped more than once, regardless of how many times it is broadcast.
- The program must be recorded in its entirety, including the copyright notice, but not all of the program must be shown.
- Programs must be shown in a location in the school which is normally used for instructional purposes.
- The program must be an integral part of the curriculum, not just entertainment.

For Home Use Only

Teachers, or educational institutions may purchase or rent a videotape which bears a For Home Use Only message and use it in an educational institution providing these two tests are met:

- The program is shown in a room normally used for instruction.
- It is an integral part of the curriculum.

Videotapes may not be shown for entertainment purposes without paying public performance fees.

This document is not intended to be construed as legal opinion. It is derived from publicly available information and is in compliance with compromises current as of January, 1996. For more specific answers to your unique Distance Learning Situation, please contact the [EDNET Faculty Training Specialist](#) at the Utah State Office of Education.
